

SECOND READING SPEECH

Local Government Amendment Bill (No.2) 2011

Bryan Green MP
Minister for Local Government

I move – That the Bill now be read for the second time.

Mr Speaker

The Bill delivers on a commitment that the Government will provide Parliament with a Bill to resolve uncertainties associated with provisions of the *Local Government Act 1993* as a matter of priority.

Local Government is a very significant part of government in Tasmania. It is the custodian of over \$8 billion in assets, expends over \$760 million of public funds and employs 4 300 Tasmanians.

It is therefore essential to ensure that Local Government has a very clear foundation for raising revenue and that there are appropriate accountability mechanisms in place to ensure that revenue raising is equitable.

Local Government delivers a wide range of services. For many of these (such as waste collection) the link

between the service and the beneficiary of the service is very clear. The Local Government Act therefore empowers councils to charge fees for these services.

There are also many services that Local Government delivers that cannot be directly linked to the individuals that benefit from the services provided. For example, nobody can identify exactly who benefits from street lighting, or from public open space, or the administration of councils. Councils cannot reasonably exclude people from benefiting from these services. Individuals cannot lower the cost for the council by choosing to receive less benefit from these services.

This type of service is defined universally as a 'public good' and the costs of providing these services is met by the raising of taxes. To be fair, all taxes are raised having regard to a capacity of an individual to pay.

Local government rates are a tax. This view has been expressed widely, including by the Commonwealth Government's Henry Review and the Productivity Commission 2008 Report *Assessing Local Government Revenue Raising Capacity*.

The tax approach is also shown by the structure of the Tasmanian Local Government Act and all other relevant state legislation across Australia. Such legislation requires rates to be based on some measure of the value of property.

In rating, capacity to pay is reflected in the value of a ratepayer's property.

In Tasmania, we recently allowed a fixed charge component on rates of up to 50 per cent of council revenue, but the remaining 50 per cent of council revenue must be based on some measure of the value of its ratepayers' property.

At least three councils in Tasmania have decided to protect their communities from the significant volatility in rates liabilities caused by property value fluctuations by applying a single charge to almost all residents within their municipality. For at least two of these councils, capacity to pay was judged by where a ratepayer lived, as opposed to the actual value of the ratepayer's property.

There have been mixed views on whether the existing provisions of the Local Government Act accommodate this practice.

The State Government is committed to the principle that rates should be raised having regard to the capacity of an individual's capacity to pay. Generally, a ratepayer who owns a house worth \$1 million has a greater capacity to pay rates than a ratepayer who owns a \$300 000 house.

We do, however, respect the need for councils to work with their communities to identify how best to deliver services and raise revenue to deliver those services. We

understand that circumstances can exist that require different approaches.

If a council is transparent and considered in its deliberation and actively and comprehensively engages with its community, and if the outcome of this process is that in the views of the elected officials a uniform rate across a residential locality is the fairest way to raise revenue, then the State Government should not stand between the council and its community.

Let me be clear that the State Government does not consider that it would be reasonable or equitable to apply a uniform rate across a locality in the majority of Tasmania's 29 municipal areas.

In most instances, this policy will shift the burden of paying rates from those most able to pay to low value houses.

For example, the value of homes in West Hobart range from just over \$100 000 to well over \$1 million. A uniform rate in this suburb would result in these houses paying the same amount.

We are willing, however, to introduce a new rating tool in this Bill, called the 'averaged area rate', to provide councils with the flexibility to identify localities where residential ratepayers' property values may not be the preferred measure of ratepayers' capacity to pay.

The averaged area rate is derived by calculating the total revenue that would otherwise be collected from a residential locality based on the general rate. The total revenue is then divided by the number of rateable residential properties, so that all properties within that locality pay a uniform amount.

These provisions, if approved, will provide a clear legal basis for the Brighton Council's rating policy.

The Bill requires a council to undertake extensive public consultation prior to implementing an averaged area rate. This will ensure that the community is informed, and has an opportunity to make submissions, regarding the proposal to make an averaged area rate.

One of the public consultation requirements is that a council must write to affected ratepayers and provide a comparison of the calculation of what the individual ratepayer paid for the current financial year based on the value of their land, and what they would have paid had an averaged area rate been applied.

The Bill provides a specific exemption for the Brighton, Glamorgan–Spring Bay and George Town Councils from this one requirement. This is because it is not possible for these Councils to calculate the rates payable under a non flat–rate policy, when residential flat rates have already been implemented across these municipalities for a number of years.

The proposed approach is considered to balance the needs of councils currently applying a 'flat rate' and other councils that are concerned with the spread of the policy to other areas of the State where flat-rating would have a significant and negative impact on some sectors of the community

The Bill also seeks to achieve other important reforms.

The Bill provides for increased transparency in council rating by requiring all councils to develop and publish a rates and charges policy. These policies must take into account the principle statements introduced in this Bill.

These principles are:

- that rates are a form of taxation; and
- that capacity to pay (based on the value of the property) must be a key consideration when setting rates.

The policies must be implemented by 31 August 2012 and will be reviewed every four years, or when a council makes a significant change to its rates structure.

Guidance on how to develop a rates and charges policy will be provided to councils as part of the implementation of this Bill, if approved.

The Bill includes a regulation-making power which may be used to provide further direction to councils on the content of its rates and charges policy.

There is currently uncertainty concerning the use of a minimum amount payable on a general rate, and whether a council has the power to vary the minimum amount payable under section 107 of the Local Government Act.

The Bill gives councils a clear basis to vary the minimum amount payable if a council varies the general rate under section 107.

The Bill also limits the number of properties that can be on the minimum amount to 35 per cent to ensure that councils use this tool appropriately and do not use it to apply a quasi 'flat-rate' through the setting of a very high minimum amount and a low general rate.

The Bill provides transitional arrangements whereby councils that may already be setting a minimum amount that applies to more than 35 per cent of properties can set a minimum amount that affects 50 per cent in the 2012–13 financial year, thereby allowing a gradual reduction in reliance on the minimum amount.

To ensure that a council that is currently highly dependent on the minimum amount is able to transition to the 35 per cent limit without significant rate fluctuations, the Bill makes provision for a council to apply to the Minister for Local Government for an Order authorising an alternate percentage limit to apply for a particular financial year or years.

The Bill also provides councils with a new ability to apply to the Minister for a Rectification Order to allow them to remake a rate or charge if a rate or charge has been made in error, or may be invalid under the Local Government Act. This will avoid the need to return to Parliament to correct errors in councils' rates resolutions.

The Bill clarifies that a council is expressly permitted to apply a service rate or charge for the establishment,

management, provision or rehabilitation of waste management facilities.

Ongoing uncertainties about the legal foundation upon which some councils have raised rates threatens the core financial viability of those councils in this State. It is critical that councils have greater confidence in their authority to raise revenue and it is incumbent upon this House to resolve any uncertainties that have arisen so that councils remain viable.

For this reason, we are, through this Bill, seeking to validate all rates and charges that have been made by councils prior to the introduction of the Bill into Parliament.

However, the Bill will not affect proceedings that have already been commenced or determined in a court that relate to the validity of a council's rates. Any proceedings already commenced will continue to be dealt with in the ordinary way.

This Bill will have a significant role in providing clarity for Local Government in relation to the principles of taxation. It is essential that decision-making has a clear policy basis; that there is transparency in government processes; and, there is flexibility for councils to find the best rating solutions for local communities.

I commend the Bill to the House.